

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 625 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

SOMABHAI GALABHAI CHAREL

Versus

STATE OF GUJARAT

Appearance:

MR MM TIRMZI for Petitioner
MR KT DAVE AGP for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 09/03/2000

ORAL JUDGEMENT

#. District Magistrate, Dahod, passed an order on November 30, 1999 against the petitioner in exercise of powers under Section 3 (2) of the Prevention of Black Marketing & Maintenance of Supplies of Essential Commodities Act, 1980 ("PBM Act" for short), detaining the petitioner under the PBM Act.

#. In the grounds of detention, the detaining authority considered that the detenu was involved in activities which were detrimental to the smooth supply of essential commodities like wheat, rice, blue kerosene (controlled kerosene) and sugar. For that purpose, detailed study was made and statements were recorded. The grounds of detention indicate that malpractice was adopted by the detenu in quantities of kerosene, wheat etc., and ultimately, the order was passed. The detenu has challenged the order of detention by this petition under Article 226 of the Constitution of India and has raised many grounds of detention. The main contention being that of delay in considering the representation made to the Central Government. Mr. Tirmizi placed reliance on this ground alone. He has drawn attention of this Court to the affidavit-in-reply filed on behalf of the Central Government and submitted that there is delay of about 2 weeks in considering the representations made by the detenu. This has rendered the continued detention illegal and the petition may therefore, be allowed.

#. The petition is opposed by Mr. K.T. Dave, learned AGP and Ms. Davawala, learned counsel for the Central Government.

#. It transpires that various representations were made on behalf of the detenu, but the relevant one are dated January 12, 2000 and January 17, 2000. Upon receipt of these representations, the Central Government called for parawise remarks which were received on 11th February, 2000 and 17th February, 2000 and both the representations came to be rejected on 25th February, 2000. Thus, the representations dated 12th January, 2000 came to be decided on 25th February, 2000 although parawise remarks were with the Central Government on 11th February, 2000. In any case, there is delay of about 2 weeks in deciding the representations and no plausible explanation is tendered in affidavit-in-reply explaining the delay. This delay has vitiated the continued detention of the detenu and the petition deserves to be allowed on this count.

#. The petition is allowed. The impugned order of detention dated November 11, 1999 passed by the District Magistrate, Dahod is hereby quashed and set aside. The detenu - Somabhai Galabhai Charel is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

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